

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

(Alexandria Division)

PEDRO RODRIGUEZ,)	
)	
)	
<i>Plaintiff,</i>)	
)	
v.)	
)	
PEKING GOURMET INN, INC.)	
<i>Serve:</i> Mark B. Sandground, Sr., R/A)	
8500 Leesburg Pike #407)	
McLean, VA 22182)	
)	
<i>Defendants.</i>)	
)	

Civ. No: 1:18-cv-01501

COMPLAINT

Preliminary Statement

1. Plaintiff Pedro Rodriguez sues his former employer for failure to pay minimum wage and overtime in violation of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* Jurisdiction over plaintiffs' claim lies in this court pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216(b).

Parties

2. Plaintiff Pedro Rodriguez is an adult resident of Fairfax County. He worked for defendant as a kitchen employee.

3. Defendant Peking Gourmet Inn, Inc. is a Virginia corporation with its principal place of business in Fairfax County. Peking Gourmet Inn, Inc has operated a Chinese restaurant known as Peking Gourmet Inn in Fairfax County since about 1978.

FACTS

4. On information and belief, Defendant's gross annual business volume exceeded \$500,000 at all times relevant to this action.

5. Plaintiff worked as kitchen staff at the Peking Gourmet Inn restaurant in Fairfax County. His job duties included preparing food to be cooked, washing pots and dishes, general cleaning of the restaurant, and training new hires. In the performance of his job, Plaintiff was regularly involved in handling food ingredients that had traveled in interstate commerce, including but not limited to receiving deliveries from interstate suppliers and putting the food ingredients in their proper coolers or refrigerators.

6. Plaintiff worked as a kitchen employee at Peking Gourmet Inn from about May 23, 2015 to about July 23, 2018.

7. Plaintiff generally worked 72 hours per week, not including breaks.

8. During his first year of employment (2015-16), Plaintiff was paid a flat-rate salary of \$1500 per month. During the second year of his employment, he was paid a flat-rate salary of \$1550 per month. During the third year of employment (2017-18), he was paid a flat-rate salary of \$1600 per month.

9. At all relevant times, Defendant failed to pay Plaintiff the lawful minimum wage of \$7.25 per hour, and failed to pay him time-and-a-half for overtime hours (defined as hours worked in a week beyond 40, *see* 29 U.S.C. § 207(a)(2)(C)).

CAUSE OF ACTION:
Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*

10. At all times relevant to this action:

a. Plaintiff was an employee of Defendant within the meaning of 29 U.S.C. § 203(e)(1);

- b. Defendant was Plaintiff's employer of within the meaning of 29 U.S.C. § 203(d);
- c. Defendant employed Plaintiff within the meaning of 29 U.S.C. § 203(g); and
- d. Plaintiff was engaged in commerce, and/or was employed by Defendant in an enterprise engaged in commerce.

11. By failing to pay Plaintiff at least \$7.25 per hour not including overtime premiums, Defendant violated the minimum wage provisions of the Fair Labor Standards Act, 29 U.S.C. § 206, to Plaintiff's injury, and is liable to him in damages. These violations were willful within the meaning of the FLSA, 29 U.S.C. § 255(a), in that Defendant made no effort whatsoever to pay Plaintiff the proper minimum wage notwithstanding the fact that they were plainly and obviously earning less than \$7.25 per hour not including overtime premiums.

12. By failing to pay Plaintiff his lawful time-and-a-half overtime premiums, Defendant violated the overtime provisions of the Fair Labor Standards Act, 29 U.S.C. § 207, to Plaintiff's injury, and is liable to him in damages. These violations were willful violations within the meaning of the FLSA, 29 U.S.C. § 255(a), in that Defendant made no effort whatsoever to pay Plaintiff the proper overtime premium notwithstanding the fact that Plaintiff was plainly and obviously working overtime.

Requested Relief

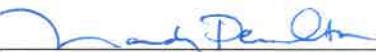
Wherefore, Plaintiff Pedro Rodriguez respectfully requests that this court provide the following relief:

1. A declaration that the Defendant's actions willfully violated the minimum wage and overtime provisions of the Fair Labor Standards Act, 29 U.S.C. § 207, such that a three-year statute of limitations is appropriate;
2. An award of Plaintiff's actual damages in the amount of all unpaid minimum wages and overtime under the FLSA (29 U.S.C. §§ 206, 207), in an amount to be proved at trial;
3. An additional award of equal amount as liquidated damages, pursuant to 29 U.S.C. § 216(b);
4. An award of Plaintiff's costs and reasonable attorney's fees, as appropriate under the Fair Labor Standards Act, 29 U.S.C. § 216(b); and
5. Such other and further relief as this court deems necessary and proper.

Plaintiffs demand trial by jury.

Respectfully submitted,

LEGAL AID JUSTICE CENTER

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Date: 12/5/18